

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**GREGORY M. LYONS,** )

)

)

)

**Plaintiff,** )

)

**v.** )

)

**CITY OF MCDONOUGH,** )

**GEORGIA and MCDONOUGH** )

**POLICE DEPARTMENT,** )

)

)

**Defendants.** )

**CASE NO.:  
1:13-CV-00805-SCJ**

**JOINT MOTION FOR REVIEW AND APPROVAL  
OF SETTLEMENT AND RELEASE AGREEMENT**

COME NOW Plaintiff Gregory M. Lyons and Defendants City of McDonough, Georgia and McDonough Police Department, and jointly move this Court for a review and approval of their Settlement Agreement and Full and Final Release of All Claims.

As grounds for this motion, the Parties show as follows:

1. Plaintiff filed his Complaint [Dkt. 1] on March 13, 2013, alleging violations of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §201, et seq.

2. Defendants timely denied all material allegations and alleged defenses to all of Plaintiff's claims.

3. The Parties exchanged documents, including payroll records, and engaged in settlement discussions, enabling each party to understand and assess the detail and substance of their respective claims and defenses.

4. Based upon the understandings and assessments of each party, the Parties negotiated and entered, acting at arms' length and in good faith and with the advice of counsel, into a Settlement Agreement and Full and Final Release of All Claims, attached hereto as Exhibit 1.

5. If approved, the Settlement Agreement and Full and Final Release of All Claims will provide the Plaintiff with monetary consideration substantially equivalent to what he would have been awarded based on the evidence discovered had this matter proceeded to trial and had he fully prevailed on the claims in the Complaint had the two-year statute of limitation applied. Because evidence that Defendants had a good faith belief that Plaintiff was being paid for time spent caring for the K-9, as well as whether all of the time claimed by Plaintiff was reasonable, Plaintiff acknowledges that there is a bona fide dispute as to the number of overtime hours that he worked and whether he was likely to obtain an extended statute of limitation. With advice of

counsel, Plaintiff has elected to enter into the settlement agreement before the Court for approval, and he is satisfied with the amount.

6. The parties and Plaintiff agree to the amounts to be paid to Plaintiff's attorneys, and therefore, no judicial approval of same is required. See Helms v. Central Fla. Reg. Hosp., No. 6:05-cv-383-Orl-22JGG, 2006 WL 3858491, \*3-4 (M.D. Fla. Dec. 26, 2006) (The FLSA does not require the court to assess the fairness of an *agreed* payment of attorneys' fees in settling an individual action). Should judicial approval be required, Plaintiff's counsel would show that with the time spent investigating the claim, preparing the Complaint and other documents, as well as settlement negotiations, they have spent at least 25 hours or in excess of \$6,761.87 in time and expenses pursuing the claim.

7. Pursuant to Lynn's Food Stores, Inc. v. United States of Am., 679 F.2d 1350, 1353 (11th Cir. 1982), Defendants take the position that judicial approval is required to give effect to Plaintiff's release of his FLSA claims, which is material to the Settlement Agreement.

8. A proposed Order is attached hereto as Exhibit 2.

WHEREFORE, the Parties move this Court for a review and approval of their Confidential Settlement and Full and Final Release of All Claims.

Respectfully submitted, this 26th day of August 2013.

s/Grady K. Dukes

*(with express permission)*

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## CERTIFICATE OF SERVICE

I hereby certify that on August 26, 2013, I electronically filed the foregoing

## JOINT MOTION FOR REVIEW AND APPROVAL OF SETTLEMENT

**AND RELEASE AGREEMENT** with the Clerk of Court using the CM/ECF

system which will automatically send notification of such filing to the following:

Grady K. Dukes  
Donald C. English

s/Elliott M. Friedman

Elliott M. Friedman

Georgia Bar No. 277566

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